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EXAMINER	
LAMBRECHT, CHRISTOPHER M	
ART UNIT	**PAPER NUMBER**
2611	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/933,880	ALLEN ET AL.	
	Examiner	Art Unit	
	Christopher M. Lambrecht	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,6-15,19-35 and 39-48* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,6-15,19-35 and 39-48* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12 December 2005 have been fully considered but they are not persuasive. The amendments to claims 15, 21, 35, 42, and 43 fail to patentably distinguish over the art of record.

At pages 12-13 of Applicant's remarks, Applicant asserts that neither the Isaka nor the Brunelle reference discloses the claimed "interactive option." Applicant argues that neither of the cited references addresses the idea of enhancing interactive television by providing a user with "the ability to interact with television programming...." Examiner notes, however, that the subject claims do not require this ability. As conceded by Applicant in the second paragraph beginning on page 13 of the remarks, both of the cited references relate to handling incoming telephone calls in a television system. Examiner submits that a telephone call constitutes an interactive option, i.e., an option to engage in a conversation with another party.

Applicant's failure to adequately traverse facts Officially noticed in the prior Office action is treated as an admission of the facts so noticed.

Claim Objections

2. Claims 6 and 7 are objected to because of the following informalities: At line 2 of claim 6 and line 2 of claim 7, replace "communication" with --television signal--. Appropriate correction is required.

Examiner notes that strike-through text ("telephone call") at line 2 off claim 6 and line 2 of 7 does not reflect the corresponding text ("television signal") of original claims 6 and 7.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> -or-
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 15, 21, 28, 30, 31, 33, 35, 42, 43, 45, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Isaka (of record).

Regarding claims 15, 21, 35, 42, and 43, Isaka discloses an interactive television system for mitigating interruptions during television viewing, the system comprising:

a tuner that receives a television signal from a signal source (col. 2, ll. 60-65 and col. 3, ll. 37-41, where a television receiver inherently comprises a tuner);

a video controller that displays the television signal on a television (col. 2, ll. 55-60);

a detection component that detects an interactive option (i.e., incoming telephone call) being activated (i.e., answered) by a user of the interactive television system (col. 2, ll. 46-52 and col. 3, ll. 8-15);

a buffering component that automatically buffers the television signal (col. 3, ll. 8-15);

a playback component that, in response to the interactive option being terminated, automatically plays back the television signal being buffered (col. 3, ll. 22-36).

As to claim 28, see Isaka as applied to claim 21, above.

As to claims 30 and 45, Isaka discloses the system of claims 21 and 15, wherein the detection component detects a user activating the interactive option (col. 3, ll. 9-15), the system further comprising:

a playback component that, in response to detecting the interactive option being terminated, plays back the television signal being buffered from a point in time at which the interactive option was activated by the user (i.e., point in time at which call was answered; see col. 3, ll. 22-36).

As to claim 31, Isaka discloses the system of claim 21, further comprising:

a playback component that, in response to a user command, plays back the television signal being buffered while the user is interacting with the interactive option (i.e., telephone call is in progress; col. 4, ll. 8-11).

As to claim 33, Isaka discloses the system of claim 21, further comprising:

a playback component that automatically plays back the television signal being buffered in response to the interactive option being terminated (col. 3, ll. 21-36) and, during automatic playback of the buffered television signal, resumes display of a real-time television signal from the signal source in response to a user command (col. 3, ll. 37-51).

As to claim 48, Isaka discloses the system of claim 28, wherein the user activating the interactive option comprises making an interactive option selection (i.e., answering the incoming call) and displaying the selection (image information from telephone line) on a display of the interactive television system in response to a user command (see col. 3, lines 52-65).

5. Claims 15, 19, 21, 27, 29, 35, 39, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Brunelle (of record).

Regarding claims 15, 21, and 35, Brunelle discloses an interactive television system for mitigating interruptions during television viewing and corresponding method, comprising:

a tuner that receives a television signal from a signal source (cable box, satellite receiver, etc... ¶0020);

a video controller that displays the television signals on a display device (call manager, ¶0021);

a detection component that detects an interactive option (i.e., incoming call) at the interactive television system (¶0039); and

a buffering component that automatically buffers the television signal for subsequent playback after the interactive option is terminated (¶¶0040,59).

As to claims 19 and 39, Brunelle discloses the system and corresponding method of claims 15 and 35, further comprising:

a playback component that, in response to detecting the interactive option being terminated, plays back the television signal being buffered from a point in time at which the interactive option was detected (¶¶0055,6).

As to claim 27, Brunelle discloses the system of claim 21. In addition, Brunelle discloses the buffering component automatically buffers the television signal in response to detecting the incoming communication (¶¶0039,40).

As to claim 29, Brunelle discloses the system of claim 21. In addition, Brunelle discloses the detection component detects a user accepting receipt of the communication (¶0054), the system further

comprising: a playback component that, in response to detecting the communication being terminated, plays back the television signal being buffered from a point in time at which the communication was detected (¶¶0055,6).

As to claim 44, Brunelle discloses the system of claim 15, wherein terminating the interactive option comprises removing the content (see ¶0051) of the interactive option from display on the television system (¶0059).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 7, 10-14, and 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Isaka (of record) in view of U.S. Patent Application Publication No. 2002/0162116 to Read et al. (hereinafter "Read")

Regarding claims 1 and 41, Isaka discloses a method in an interactive television system for mitigating interruptions during television viewing, the method comprising:

receiving a television signal from a signal source (col. 2, ll. 60-65 and col. 3, ll. 37-41);

displaying the television signal on a television (col. 2, ll. 55-60);

detecting an incoming communication/interactive option (i.e., telephone call) on the interactive television system (col. 3, ll. 8-15);

automatically buffering the television signal (col. 3, ll. 10-21);

detecting a user accepting receipt of the communication (answering the telephone call, col. 3, ll. 8-15);

in response to the communication being terminated, playing back the television signal being buffered (col. 3, ll. 22-36).

Isaka teaches the desirability of buffering the received television program in response to the detection of an incoming communication (see col. 1, lines 20-40), but fails to disclose that the incoming telephone call is sent from a television set-top box. In an analogous art, however, Read discloses a set-top box (102, fig. 1) adapted to send a telephone call to a public switched telephone network (PSTN 126, fig. 1) via an interactive television network (104, fig. 1; see paragraph 0026). The system disclosed by Read enables users to place and receive telephone calls using conventional telephone equipment coupled to the set-top box (see paragraphs 0005-0008).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the functionality disclosed by Isaka in combination with an incoming communication sent by a set-top box, as taught by Read, for the benefit of mitigating interruptions during television programs in the event that the incoming communication is sent from a telephony-enabled television set-top box.

As to claim 7, Isaka and Read together disclose the system of claim 1, wherein the television signal is automatically buffered in response to a user accepting receipt of the communication (Isaka, col. 3, ll. 9-15).

As to claim 10, Isaka and Read together disclose the system of claim 1, wherein the detection component detects a user accepting receipt of the communication (i.e., answering the telephone call; col. 3, ll. 9-15), the system further comprising:

a playback component that, in response to detecting the communication being terminated, plays back the television signal being buffered from a point in time at which the communication was accepted by the user (col.3, ll. 22-36).

As to claim 11, Isaka and Read together disclose the system of claim 1, further comprising:

a playback component that, in response to a user command, plays back the television signal being buffered while the telephone call is in progress (col. 4, ll. 8-11).

Regarding claim 12, Isaka and Read together disclose the system of claim 1, but fail to disclose an encoder that encodes the television signal; and a storage device that stores the encoded video signal.

Official notice is taken of the fact that it is well known in the art to employ an encoder and associated storage device for encoding an storing a received television signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka and Read to include an encoder that encodes the television signal; and a storage device that stores the encoded video signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

As to claim 13, Isaka and Read together disclose the system of claim 1, further comprising:

a playback component that automatically plays back the television signal being buffered in response to the telephone call being terminated (col. 3, ll. 21-36) and, during automatic playback of the buffered television signal, resumes display of a real-time television signal from the signal source in response to a user command (col. 3, ll. 37-51).

Regarding claim 14, Isaka discloses the system of claim 13, but fails to disclose the playback component plays back the buffered television signal at a modified rate in response to a transport control.

Official notice is taken of the fact that it is well known in the art to provide transport controls (e.g., fast-forward, fast-reverse, etc...) on a recording device, enabling the user to play back stored material at a modified rate, for the benefit of enabling the user to skip undesired program material.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka and Read to include the playback component plays back the buffered television signal at a modified rate in response to a transport control, for the benefit of enabling the user to skip undesired program material.

8. Claims 1, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunelle in view of Read.

Regarding claim 1, Brunelle discloses an interactive television system for mitigating interruptions during television viewing, the system comprising:

a tuner that receives a television signal from a signal source (cable box, satellite receiver, etc... ¶0020);

a video controller that displays the television signals on a display device (call manager, ¶0021);

a detection component that detects an incoming communication (telephone call) at the interactive television system (¶0039); and

a buffering component that automatically buffers the television signal for subsequent playback after the communication is terminated (¶¶0040,59).

Brunelle teaches the desirability of buffering the received television program in response to the detection of an incoming communication (see paragraphs 0004-0005), but fails to disclose that the

incoming telephone call is sent from a television set-top box. In an analogous art, however, Read discloses a set-top box (102, fig. 1) adapted to send a telephone call to a public switched telephone network (PSTN 126, fig. 1) via an interactive television network (104, fig. 1; see paragraph 0026). The system disclosed by Read enables users to place and receive telephone calls using conventional telephone equipment coupled to the set-top box (see paragraphs 0005-0008).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the functionality disclosed by Brunelle in combination with an incoming communication sent by a set-top box, as taught by Read, for the benefit of mitigating interruptions during television programs in the event that the incoming communication is sent from a telephony-enabled television set-top box.

As to claim 6, Brunelle and Read together disclose the system of claim 1. In addition, Brunelle discloses the buffering component automatically buffers the television signal in response to detecting the incoming communication (¶¶0039,40).

As to claim 8, Brunelle and Read together disclose the system of claim 1. In addition, Brunelle discloses the detection component detects a user accepting receipt of the communication (¶0054), the system further comprising: a playback component that, in response to detecting the communication being terminated, plays back the television signal being buffered from a point in time at which the communication was detected (¶¶0055,6).

As to claim 9, Brunelle and Read together disclose the method of claim 8. In addition, Brunelle discloses detecting a user accepting receipt of the communication comprises detecting the communication being presented on a display of the interactive television system (¶¶0029-0030).

9. Claims 20, 32, 34, 40, 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isaka.

Regarding claims 20, 32, and 40, Isaka discloses the system and corresponding method of claims 15, 21, and 35, but fails to disclose an encoder that encodes the television signal; and a storage device that stores the encoded video signal.

Official notice is taken of the fact that it is well known in the art to employ an encoder and associated storage device for encoding an storing a received television signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka to include an encoder that encodes the television signal; and a storage device that stores the encoded video signal, for the benefit of increasing the amount of program material that can be stored on said storage device.

Regarding claim 34, Isaka discloses the system of claims 33, but fails to disclose the playback component plays back the buffered television signal at a modified rate in response to a transport control.

Official notice is taken of the fact that it is well known in the art to provide transport controls (e.g., fast-forward, fast-reverse, etc...) on a recording device, enabling the user to play back stored material at a modified rate, for the benefit of enabling the user to skip undesired program material.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Isaka to include the playback component plays back the buffered television signal at a modified rate in response to a transport control, for the benefit of enabling the user to skip undesired program material.

Regarding claims 46 and 47, Isaka discloses the system of claims 15 and 21, wherein the interactive option comprises a telephone call, but fails to disclose at least one of completing polls, completing surveys, following an internet link embedded in a television broadcast, and making an online purchase. However, Official notice is taken of the fact that it is well known in the art to conduct polls and surveys by way of telephone calls (e.g., Gallup polls).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teachings of Isaka to interactive options consisting of completing polls or completing surveys, in order to permit the user to complete such telephone-phone based surveys or polls without missing portions of a television program.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
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